

CRM-M-3157-2020

Date of decision: 16.01.2023

VIJAY AND ANR.

...PETITIONERS

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

Present: Mr. Ranvijay Singh, Advocate for
Mr. Ramandeep Singh, Advocate
for the petitioners.

Mr. Ranvir Singh Arya, Addl. AG, Haryana.

Mr. Shashi Kumar Yadav, Advocate
for respondent No.2/complainant.

VIVEK PURI, J. (ORAL)

On 24.01.2020, the following order was passed:-

“Prayer in the petition filed under Section 438 of the Code of Criminal Procedure, 1973 is for grant of anticipatory bail to the petitioners in case FIR No.3 dated 03.01.2020 registered under Sections 323, 379, 427 and 506 read with Section 34 of the Indian Penal Code, 1860 (for short the 'IPC') at Police Station Rampura, District Rewari.

Learned Counsel for the petitioners has submitted that the petitioners, being husband and elder brother-in-law of the complainant, are accused of having beaten and criminally intimidated complainant-Rakhi and her friend Rakesh and to have stolen shoulder bag containing amount of Rs.1,45,000/-, one gold ring and three IDs on 13.12.2019. The occurrence is alleged to have taken place in front of R.B.S. Public School, Rewari and the complainant and her friend are alleged to have been rescued by the public. There is undue and unexplained delay of three days in the lodging of the FIR. The matrimonial relations between the complainant and petitioner No.1 are strained. The complainant had earlier lodged FIR No.83 dated 11.02.2019 under Sections 294, 323 and 506 of the IPC at Police Station Model Town, Rewari against the petitioner No.1. False allegations regarding theft of shoulder bag containing amount of Rs.1,45,000/-, one gold ring and three IDs have been made against the petitioners to make out a false case for their custodial interrogation. The petitioners are ready to join the investigation.

Notice of motion.

On the asking of the Court, Mr. Arjun Singh Yadav, AAG Haryana

accepts notice on behalf of the respondent-State.

At this stage, Mr. Shashi Kumar Yadav, Advocate has put in appearance on behalf of the complainant and filed his power of attorney which is taken on record.

Copies of the paper book have been supplied to learned State Counsel and learned Counsel for the complainant.

Learned Counsel for the complainant has submitted that the complainant who is an advocate practicing in the District Court, Gurugram and is aspirant for judicial service was going to Delhi for depositing the amount in question as coaching fee with the coaching institute. The petitioner No.1, who was already accused in another criminal case for having committed similar offences, along with his brother had given beating and criminally intimidated the complainant and her friend and stolen her bag from her car. Custodial interrogation of the petitioners is necessary for recovery of stolen property.

Learned State Counsel seeks time to complete his instructions and file reply/status report regarding investigation.

Adjourned to 31.03.2020.

In the meanwhile, the petitioners are directed to join the investigation as and when called upon to do so. In the event of their arrest, the petitioners shall be released on interim bail by the arresting officer/investigating officer on furnishing of bail bonds by them to the satisfaction of the arresting officer/investigating officer. The petitioners shall comply with the conditions enumerated under Section 438(2) of the Cr.P.C. failing which they shall forfeit the benefit of interim bail allowed to them.”

Learned counsel for the petitioner contends that in pursuance of interim directions, the petitioner has joined the investigation. The present FIR has been registered on account of marital dispute between petitioner No.1 with the complainant and the same has been amicably settled. Both of them residing together in the matrimonial house.

On instructions from EASI Randhir, learned State counsel submits that the petitioner has joined the investigation in pursuance of interim directions but his custodial interrogation is required to effect the recovery of the articles.

The controversy as to whether the petitioner had committed theft of any article will be a debatable and moot point during the course of trial.

Moreover, the petitioner has joined the investigation in pursuance of interim directions. The marital dispute has been amicably settled. Petitioner No.1 and

the complainant are residing together in the matrimonial house. As such, sufficient exceptional circumstances are made out to extend the concession of pre-arrest bail to the petitioner.

In view of the aforesaid submissions, the order dated 24.01.2020, granting interim bail to the petitioner is made absolute.

The petition is allowed.

16.01.2023

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(VIVEK PURI)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether reportable:	Yes/No